

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

(1) KEITH L. BEVERLY,

Plaintiff,

v.

(1) EXPERIAN INFORMATION
SOLUTIONS, INC.

(2) MRS BPO, L.L.C. D/B/A MRS
ASSOCIATES, AND

(3) NATIONAL COLLEGIATE
TRUST,

Defendants.

Civil Action No. 4:13-cv-00545-
JED-PJC

ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES OF
EXPERIAN INFORMATION SOLUTIONS, INC.

Douglas L. Inhofe (OBA No. 4550)
J. David Jorgenson (OBA No. 4839)
SNEED LANG, P.C.
1700 Williams Center Tower I
One West Third Street
Tulsa, Oklahoma 74103
Telephone: 918-588-1313
Facsimile: 918-588-1314
Email: dinhofe@sneedlang.com
Email: djorgenson@sneedlang.com

ATTORNEYS FOR DEFENDANT
EXPERIAN INFORMATION
SOLUTIONS, INC.

Joseph C. Van Asten
(Texas Bar No. 24075598)
(pending approval of motion *pro hac vice*)
JONES DAY
2727 North Harwood Street
Dallas, TX 75201.1515
Telephone: +1.214.220.3939
Facsimile: +1.214.969.5100
E-mail: jcvanasten@jonesday.com

ATTORNEY FOR DEFENDANT
EXPERIAN INFORMATION
SOLUTIONS, INC.

NOW COMES defendant Experian Information Solutions, Inc. (“Experian”), by its undersigned counsel, and in answer to the Complaint, states as follows:

I. JURISDICTION

1. In response to paragraph 1 of the Complaint, Experian admits that Plaintiff has alleged jurisdiction of its claims against Experian based on the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. (“FCRA”). Experian states that this is a legal conclusion which is not subject to denial or admission. As to the remaining allegations in paragraph 1 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 1 of the Complaint.

2. In response to paragraph 2 of the Complaint, Experian admits that this court has subject matter jurisdiction over this action.

II. VENUE

3. In response to paragraph 3 of the Complaint, Experian does not dispute that venue is proper in this court.

4. In response to paragraph 4 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

5. In response to paragraph 5 of the Complaint, as it relates to another defendant, Experian is without knowledge or information sufficient to form a belief as to the truth of

the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

6. In response to paragraph 6 of the Complaint, as it relates to another defendant, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

7. In response to paragraph 7 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 7 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 7 of the Complaint.

III. GENERAL ALLEGATIONS

8. In response to paragraph 8 of the Complaint, as it relates to another defendant, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

9. In response to paragraph 9 of the Complaint, as it relates to another defendant, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

10. In response to paragraph 10 of the Complaint, as it relates to another defendant, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

11. In response to paragraph 11 of the Complaint, as it relates to another defendant, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

12. In response to paragraph 12 of the Complaint, as it relates to another defendant, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

13. In response to paragraph 13 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 13 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 13 of the Complaint.

14. In response to paragraph 14 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein

and, on that basis, denies, generally and specifically, each and every allegation contained therein.

15. In response to paragraph 15 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 15 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 15 of the Complaint.

16. In response to paragraph 16 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

IV. COUNT I – NEGLIGENT VIOLATION OF THE FCRA BY MRS

17. In response to paragraph 17 of the Complaint, Experian admits those limited allegations that were previously admitted and denies those allegations that were previously denied.

18. In response to paragraph 18 of the Complaint, as it relates to the other Defendant, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

19. In response to paragraph 19 of the Complaint, as it relates to the other Defendant, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

20. In response to paragraph 20 of the Complaint, as it relates to the other Defendant, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

21. In response to paragraph 21 of the Complaint, as it relates to the other Defendant, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

22. In response to paragraph 22 of the Complaint, as it relates to the other Defendant, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

23. In response to paragraph 23 of the Complaint, as it relates to the other Defendant, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

V. COUNT II – WILLFUL VIOLATION OF THE FCRA BY MRS

24. In response to paragraph 24 of the Complaint, Experian admits those limited allegations that were previously admitted and denies those allegations that were previously denied.

25. In response to paragraph 25 of the Complaint, as it relates to the other Defendant, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

26. In response to paragraph 26 of the Complaint, as it relates to the other Defendant, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

27. In response to paragraph 27 of the Complaint, as it relates to the other Defendant, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

28. In response to paragraph 28 of the Complaint, as it relates to the other Defendant, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

VI. COUNT III – VIOLATION OF THE FDCA BY MRS AND NATIONAL COLLEGIATE TRUST

29. In response to paragraph 29 of the Complaint, Experian admits those limited allegations that were previously admitted and denies those allegations that were previously denied.

30. In response to paragraph 30 of the Complaint, as it relates to the other Defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

31. In response to paragraph 31 of the Complaint, as it relates to the other Defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

32. In response to paragraph 32 of the Complaint, as it relates to the other Defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

33. In response to paragraph 33 of the Complaint, as it relates to the other Defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

34. In response to paragraph 30 of the Complaint, as it relates to the other Defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

35. In response to paragraph 35 of the Complaint, as it relates to the other Defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every allegation contained therein.

VII. COUNT IV – NEGLIGENT VIOLATION OF THE FCRA BY EXPERIAN

36. In response to paragraph 36 of the Complaint, Experian admits those limited allegations that were previously admitted and denies those allegations that were previously denied.

37. In response to paragraph 37 of the Complaint, Experian admits that it is a consumer reporting agency as defined by 15 U.S.C. § 1681a(f) and, as such, issues consumer reports as defined by 15 U.S.C. § 1681a(d). Except as specifically admitted, Experian denies, generally and specifically, each and every remaining allegation of paragraph 37 of the Complaint.

38. In response to paragraph 38 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein.

39. In response to paragraph 39 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein.

40. In response to paragraph 40 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein.

41. In response to paragraph 41 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein.

42. In response to paragraph 42 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein.

VIII. COUNT V – WILLFUL VIOLATION OF THE FCRA BY EXPERIAN

43. In response to paragraph 43 of the Complaint, Experian admits those limited allegations that were previously admitted and denies those allegations that were previously denied.

44. In response to paragraph 44 of the Complaint, Experian admits that it is a consumer reporting agency as defined by 15 U.S.C. § 1681a(f) and, as such, issues consumer reports as defined by 15 U.S.C. § 1681a(d). Except as specifically admitted, Experian denies, generally and specifically, each and every remaining allegation of paragraph 44 of the Complaint.

45. In response to paragraph 45 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein.

46. In response to paragraph 46 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein.

47. In response to paragraph 47 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein.

48. In response to paragraph 48 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein.

49. In response to paragraph 49 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein.

IX. COUNT VI – DEFAMATION BY EXPERIAN AND MRS

50. In response to paragraph 50 of the Complaint, Experian admits those limited allegations that were previously admitted and denies those allegations that were previously denied.

51. In response to paragraph 51 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 51 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 51 of the Complaint.

52. In response to paragraph 52 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 52 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 52 of the Complaint.

X. AFFIRMATIVE DEFENSES

53. On information and belief, Experian at this time pleads the following defenses. Experian reserves the right to amend its answer and/or assert additional defenses should investigation and discovery, which could not be completed before the deadline for filing an answer, indicate such defenses are warranted.

54. The Complaint herein, and each cause of action thereof, fails to set forth facts sufficient to state a claim upon which relief may be granted against Experian and further fails to state facts sufficient to entitle Plaintiff to the relief sought, or to any other relief whatsoever from Experian.

55. All claims against Experian are barred by the qualified immunity of 15 U.S.C. § 1681h(e).

56. Plaintiff's state law claims are barred/preempted by the qualified immunity/privilege granted by the Fair Credit Reporting Act.

57. All claims against Experian are barred because all information Experian communicated to any third person regarding Plaintiff was true.

58. Experian is informed and believes and thereon alleges that any purported damages allegedly suffered by Plaintiff may not have been caused by Experian but by intervening causes.

59. Experian is informed and believes and thereon alleges that any purported damages allegedly suffered by Plaintiff are the results of the acts or omissions of third persons over whom Experian had neither control nor responsibility.

60. Plaintiff has failed to mitigate his damages.

61. The Complaint and each claim for relief therein is barred by laches.

62. Experian is informed and believes and thereon alleges that any alleged damages sustained by Plaintiff were, at least in part, caused by the actions of Plaintiff himself and resulted from Plaintiffs own negligence which equaled or exceeded any alleged negligence or wrongdoing by Experian.

63. Any damages which Plaintiff may have suffered, which Experian continues to deny, were the direct and proximate result of the conduct of Plaintiff. Therefore, Plaintiff is estopped and barred from recovery of any damages.

WHEREFORE, Defendant Experian Solutions, Inc. prays as follows:

- (1) That Plaintiff take nothing by virtue of the Complaint herein and that this action be dismissed in its entirety;
- (2) For costs of suit and attorneys' fees herein incurred; and
- (3) For such other and further relief as the Court may deem just and proper.

Dated: September 18, 2013

Respectfully submitted,

DOUGLAS L. INHOFE, OBA No. 4550
J. DAVID JORGENSEN, OBA No. 4839

By: s/ Douglas L. Inhofe

SNEED LANG PC
1700 Williams Center Tower I
One West Third Street
Tulsa, Oklahoma 74103
Telephone: 918-588-1313
Facsimile: 918-588-1314

Joseph C. Van Asten
(Texas Bar No. 24075598)
(pending approval of motion pro hac vice)
JONES DAY
2727 N. Harwood
Dallas, Texas 75201
Telephone: 214-969-4553

ATTORNEYS FOR DEFENDANT
EXPERIAN INFORMATION
SOLUTIONS, INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of September, 2013, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the ECF registrants:

Victor R Wandres
Paramount Law
4835 South Peoria Avenue, Suite One
Tulsa, OK 74105

s/Douglas L. Inhofe